

**AGENDA FOR THE
REGULAR COUNCIL MEETING OF
MONDAY, APRIL 19, 2004 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

OTHER LEGISLATIVE MEETINGS

A Special Meeting of the **SAN DIEGO REDEVELOPMENT AGENCY** is scheduled to meet today in the Council Chambers. A separate agenda is published for it, and is available in the Office of the City Clerk. For more information, please contact the Redevelopment Agency Secretary at (619) 533-5432.

ITEM-1: ROLL CALL.

ITEM-10: INVOCATION.

ITEM-20: PLEDGE OF ALLEGIANCE.

=== LEGISLATIVE SCHEDULE ===

Special Order of Business

ITEM-30: Alpha Project Day.
COUNCILMEMBER MADAFFER'S RECOMMENDATION: Adopt the
resolution.

NON-AGENDA PUBLIC COMMENT

Non-agenda public comment is taken on Tuesday pursuant to the San Diego Municipal Code Section 22.0101.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meeting, adopted on March 29, 2004, this portion of the agenda is reserved for City Attorney comment, public comment, and City Council discussion of the content of the Special Closed Session Agenda scheduled to immediately follow the Open Session on April 19, 2004. The Special Closed Session Agenda is separately available in the Office of the City Clerk and also posted at the same locations as the Open Session Agenda, including at the City internet address.

NOTE: Members of the public wishing to address the City Council on any item on the Special Closed Session Agenda should reference the closed session item number from the Closed Session Docket on the speaker slip. Speakers may speak “in favor” or “in opposition” to the subject.

Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session; 4) Refer matters discussed to closed session.

REQUESTS FOR CONTINUANCE

The Council will now consider requests to continue specific items.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items

- ITEM-100: Two actions related to Inviting Bids for the Construction of Sewer Group 718. Ocean Beach Community Area. (Dist. 2)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 3/17/2004, NR&C voted 4 to 0 to approve the project.
- ITEM-101: Two actions related to Inviting Bids for the Construction of Water & Sewer Group 545. Ocean Beach Community Area. (Dist. 2)
NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION: On 11/19/2003, NR&C voted 4 to 0 to approve.
- ITEM-102: Appointments to the Local Enforcement Agency Hearing Panel.
MAYOR MURPHY'S RECOMMENDATION: Adopt the resolution.
- ITEM-103: Construction of Golden Hill Recreation Center – Play Area Improvements. Mid City Community Area. (Dist. 3)
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-104: North Park Community Park Transfer of Funds. Mid-City Community Area. (Dist. 3)
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-105: FY 2004 Urban Area Security Initiative Grant Program.
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.
- ITEM-106: First Amendment to the Agreement with Sandler, Lasry, Laube, Byer & Valdez, LLP for Professional Services Related to the Mediation and Litigation Support on the Water Department Central Facility. Kearny Mesa Community Area. (Dist. 6)
CITY MANAGER'S RECOMMENDATION: Adopt the resolution.

=== LEGISLATIVE SCHEDULE (Continued) ===

Adoption Agenda, Consent Items (Continued)

ITEM-107: Ratifying the Centre City Redevelopment Project Area Committee (PAC) and Centre City Advisory Committee (CCAC) Election Results.
CENTRE CITY DEVELOPMENT CORPORATION'S
RECOMMENDATION: Adopt the resolution.

ITEM-108: Two actions related to Linda Vista Public Facilities Financing Plan for FY 2004. Linda Vista Community Area. (Dist. 6)
LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:
On 3/10/2004, LU&H voted 3 to 0 to adopt the City Manager's recommendation.

Public Notice

ITEM-250: Submission of Ballot Proposals.

Non-Docket Items

Adjournment in Honor of Appropriate Parties

Adjournment

=== EXPANDED CITY COUNCIL AGENDA ===

SPECIAL ORDER OF BUSINESS

ITEM-30: Alpha Project Day.

COUNCILMEMBER MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-959)

Recognizing the many accomplishments and dedication of Robert A. McElroy and the Alpha Project; and hereby proclaiming April 19, 2004 to be "Alpha Project Day" in the City of San Diego.

CLOSED SESSION NOTICES, DISCLOSURE, AND PUBLIC COMMENT

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Information Item - No Action Required - The City Council shall:

1) Consider any oral report from the City Attorney or City negotiators; 2) Accept testimony from any member of the public wishing to address the City Council on any item appearing on the Closed Session Agenda; 3) Questions and discussion by Council Members, limited to the facts as disclosed by the City Attorney or City negotiators and the basis or justification for consideration of the matter in closed session; 4) Refer matters discussed to closed session.

REQUEST FOR CONTINUANCE

The Council will now consider requests to continue specific items.

CONSENT ITEMS

The following listed items are considered to be routine, and the appropriate Environmental Impact Reports have been considered. These items are indicated on the docket by a preceding asterisk (*).

RESOLUTIONS TO BE ADOPTED:

Items 100, 101, 102, 103, 104, 105, 106, 107, and 108.

ADOPTION AGENDA, CONSENT ITEMS

RESOLUTIONS:

* ITEM-100: Two actions related to Inviting Bids for the Construction of Sewer Group 718.

(See memorandum from Frank Belock, Jr. dated 3/2/2004. Ocean Beach Community Area. District-2.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-1080 Cor. Copy)

Approving the plans and specifications for the construction of Sewer Group 718 (Project) on Work Order No. 175601;

Authorizing the City Manager, after advertising for bids in accordance with law, to establish contract funding phases and to award the Project contract to, and to execute a contract with the lowest responsible and reliable bidder for the Project, contingent upon: (a) City Council approval of the expenditure of any additional Project funding that may become necessary as a result of the bid opening for the Project; (b) the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer; and (c) the passage of the FY 2004 Capital Improvement Program and Appropriation Ordinance Budget;

Authorizing the expenditure of an amount not to exceed \$3,112,588 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation – Sewer Main Replacement, solely and exclusively, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K04699C)

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

Subitem-B: (R-2004-157)

Certifying that Mitigated Negative Declaration LDR-42-0586, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the construction of Sewer Group 718;

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program, pursuant to California Public Resources Code Section 21081.6;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 3/17/2004, NR&C voted 4 to 0 to approve the project. (Councilmembers Zucchet, Lewis, Frye, and Madaffer voted yea. Councilmember Inzunza not present.)

SUPPORTING INFORMATION:

Sewer Group 718 is part of the City of San Diego's continuing Annual Sewer Main Replacement Program. The sewer mains being replaced by this project were constructed in the early 1900's and are approaching the end of their useful service. This project is located in the Ocean Beach Community and consists of replacing approximately 8,445 feet (1.6 miles) of 6-inch sewer main which includes 7,275 feet (1.38 miles) of concrete sewer pipe and 1,170 feet (0.22 miles) of vitrified clay sewer pipe. Also, this project includes the construction of forty-six (46) curb ramps and resurfacing of impacted streets.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-100: (Continued)

SUPPORTING INFORMATION: (Continued)

The streets affected by construction operations within this project are: Long Branch Avenue, Brighton Avenue, Venice Street, and alleys between Muir Avenue and Brighton Avenue from Cable Street to Venice Street. A construction moratorium shall be observed on Abbott Street, Brighton Avenue (west of Abbott Street), Long Branch Avenue (west of Abbott Street), alley between Brighton Avenue and Long Branch Avenue (west of Abbott Street), and Sunset Cliffs Blvd. No work shall take place from Memorial Day to Labor Day (inclusive).

A Coastal Development Permit has been obtained for the area west of Abbott Street which is in the California Coastal Commission jurisdiction. This project was presented to the Ocean Beach Land Use Committee on July 17, 2002, during the design phase by the Engineering & Capital Projects Department. An update letter was sent to the Ocean Beach Planning Board on March 5, 2004 to inform the community of the construction schedule. Residents will be notified by mail at least one (1) month before construction begins through hand distribution of notices by the contractor.

The contractor will be required to provide Traffic Control Plans for the entire project area to the City of San Diego's Traffic Signal Design & Traffic Control Section for approval, with the exception of Sunset Cliffs Boulevard between Brighton Avenue and Muir Avenue. Traffic Control Plans for Sunset Cliffs Boulevard have been developed and were approved by the City of San Diego's Traffic Signal Design and Traffic Control Section and have been provided to the contractor as part of the construction plans for Sewer Group 718.

FISCAL IMPACT:

The total estimated cost of this project is \$3,112,588. Funds are available in Sewer Fund No. 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement, which is scheduled to be phase funded over FY 2004 to FY 2005.

Loveland/Belock/HR

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-101: Two actions related to Inviting Bids for the Construction of Water & Sewer Group 545.

(See memorandum from Frank Belock, Jr., dated 11/4/2003. Ocean Beach Community Area. District-2.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-1025)

Approving the plans and specifications for the Construction of Water & Sewer Group 545 on Work Order No. 176721/185321;

Authorizing the City Manager, after advertising for bids in accordance with law, to establish contract funding phases and to award the Project contract to the lowest responsible and reliable bidder in an amount not to exceed \$4,359,162, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,014,192 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation Sewer Main Replacement, and an amount not to exceed \$2,344,970 from Water Fund 41500, CIP-73-083.0, Annual Allocation Water Main Replacement, for the purpose of providing funds for the Project and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Approving the use of City Forces on the Project for the purpose of additional construction related to this project for a cost not to exceed \$270,000 from Water Fund 41500, CIP-73-083.0, Annual Allocation – Water Main Replacement, and a cost not to exceed \$5,000 from Sewer Fund 41506, CIP-44-001.0, Annual Allocation – Sewer Main Replacement;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves. (BID-K041457C)

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

Subitem-B: (R-2004-1024)

Certifying that Mitigated Negative Declaration LDR-42-0265, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of Sewer & Water Group 545;

Approving the Mitigated Negative Declaration;

Adopting the Mitigation Monitoring and Reporting Program;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego.

NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:

On 11/19/2003, NR&C voted 4 to 0 to approve. (Councilmembers Zucchet, Lewis, Frye, and Madaffer voted yea. Councilmember Inzunza not present.)

SUPPORTING INFORMATION:

Water & Sewer Replacement Group 545 is part of the City's Annual sewer and water main replacement program. The sewer and water mains to be replaced in this project were constructed as early as 1911 and are in need of replacement. Replacement of these deteriorated sewer and water mains will continue to provide the community with a safe and reliable sewer and water infrastructure. This project is in the Ocean Beach community area and consists of approximately 5,664 linear feet of sewer mains and approximately 4,768 linear feet of water mains.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-101: (Continued)

SUPPORTING INFORMATION: (Continued)

The following streets will be affected by the construction operations: West Point Loma Boulevard from Abbott Street to Muir Avenue, Muir Avenue from West Point Loma Boulevard to Abbott Street, Voltaire Street from West Point Loma Boulevard to Froude Street, Lotus Street from West Point Loma Boulevard to Abbott Street, Froude Street from Muir Avenue to Voltaire Street, Alley between Voltaire Street and Muir Avenue from West Point Loma Boulevard to Froude Street.

Group Job 545 was presented to the Ocean Beach Community Group's Land Use Community on October 16, 2002 and July 2, 2003 and to the Ocean Beach Community Development Corp. on July 25, 2003. At the presentations the design team was asked to forgo the Summer Moratorium with the exception of Independence Day.

Traffic Control Plans are part of the Construction Plans and the residents will be notified by mail at least one (1) month prior to construction by the City's Field Engineering Division and again ten (10) days prior to construction by the Contractor.

FISCAL IMPACT:

The total estimated cost of this project is \$4,359,162. Funds of \$2,014,192 are available in Sewer Fund 41506, CIP-44-001.0, Annual Allocation – Sewer Main Replacement, and \$2,344,970 are available in Water Fund 41500, CIP-73-083.0, Annual Allocation – Water Main Replacement, for this purpose. This project is scheduled to be phase funded over FY 04 to FY 05.

Loveland/Belock/HR

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-102: Appointments to the Local Enforcement Agency Hearing Panel.

(See memorandum from Mayor Murphy dated 3/22/2004, with resumes attached.)

MAYOR MURPHY'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1005 Cor. Copy)

Council confirmation of the following appointments by the Mayor to serve as members of the Local Enforcement Agency Hearing Panel, for terms ending January 1, 2006:

NAME

CATEGORY

Ken Calvert
(Replacing Steven South, whose term
has expired)

Technical Expert

John J. Lormon
(Replacing Pennie McLaughlin Carlos,
whose term has expired)

Legal

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-103: Construction of Golden Hill Recreation Center – Play Area Improvements.

(Mid City Community Area. District-3.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2004-968)

Authorizing a \$37,500 increase in Fiscal Year 2004 Capital Improvements Program Budget in CIP-29-584.0, Golden Hill Recreation Center – Play Area Improvements, in Fund No. 11640, Golden Hill Park Service District Fund;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$37,500 from CIP-29-584.0, Golden Hill Recreation Center – Play Area Improvements, in Fund No. 11640, Golden Hill Park Service District Fund, for the construction of the Golden Hill Recreation Center including a new play area which is fully compliant with current state safety regulations, as well as state and federal accessibility requirements, and additional park amenities (Project).

CITY MANAGER SUPPORTING INFORMATION:

The Golden Hill Recreation Center - Play Area Improvements project includes a new play area which is fully compliant with current state safety regulations as well as state and federal accessibility requirements. This action will add Golden Hill Park Service District Funds to the project for the purpose of adding additional community requested park amenities to the project. These include items such as placing the Golden Hill logo in the resilient play surfacing, adding benches and creating accent plantings.

FISCAL IMPACT:

Funding in the amount of \$37,500 will be available from Fund No. 11640, Golden Hill Park Service District Fund, for the purpose of adding additional park amenities to Golden Hill Recreation Center - Play Area Improvements.

Herring/Oppenheim/AP

Aud. Cert. 2400893.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-104: North Park Community Park Transfer of Funds.

(Mid-City Community Area. District-3.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-969)

Authorizing the City Auditor and Comptroller to add CIP-29-646.0, North Park Community Park – Security Lighting, to the Fiscal Year 2004 Capital Improvements Program;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$150,000 from CIP-29-826.0, North Park Community Park Phase I – Requirements, to CIP-29-646.0, North Park Community Park – Security Lighting, within Fund No. 38208, 2000 Park Bond Per Capita Fund;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$150,000 from CIP-29-646.0, North Park Community Park – Security Lighting, Fund No. 38208, 2000 Park Bond Per Capita Fund, for the purpose of adding security lighting at North Park Community Park;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$656,735.02 from CIP-29-827.0, Jefferson Elementary School/Park Playground, to CIP-29-826.0, North Park Community Park Phase I – Requirements within Fund No. 39095, Park North/East-Park Development Fund;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$656,735.02 from CIP-29-826.0, North Park Community Park Phase I – Requirements, Fund No. 39095, Park North/East-Park Development Fund, for the purpose of future park improvements.

CITY MANAGER SUPPORTING INFORMATION:

Per R-298036, \$150,000 has been dedicated for security lighting at North Park Community Park as a part of the 2002 Park Bond Per Capita funding. This action will create an independent CIP project for adding security lighting in the park.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-104: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

North Park Community Park currently has various unfunded needs which include: maintenance/recycling area upgrades, ball field lighting upgrades, renovation of the existing ball fields and upgrades to the existing multi-purpose area. This action will add North/East Park Development Funds to the project for the purpose of completing a portion of the unfunded needs.

FISCAL IMPACT:

This action involves transfers of funds only. Annual maintenance costs at the North Park Community Park due to added improvements will be determined as improvements occur.

Herring/Oppenheim/AP

Aud. Cert. 2400927.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-105: FY 2004 Urban Area Security Initiative Grant Program.

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1026)

Authorizing the City Manager, Director of Homeland Security, or the duly designated representative, to apply for the FY 04 Urban Area Security Initiative Grant;

Authorizing the City Manager, Director of Homeland Security, or the duly designated representative, to take all necessary steps to secure the grant funds from the FY 04 Urban Area Security Initiative Grant Program (Program);

Authorizing the City Manager, Director of Homeland Security, or the duly designated representative, to conduct all negotiations, execute and submit all documents, including but not limited to applications, agreements, amendments, and payment requests, which may be necessary to comply with FY 04 Urban Area Security Initiative Grant Program;

Authorizing the City Manager, Director of Homeland Security, or the duly designated representative, to accept, appropriate, expend, and administer the grant funds, if secured, in accordance with the terms and conditions set forth in the FY 04 Urban Area Security Initiative Grant Program;

Declaring that any allocation of funds awarded under this Program be mutually endorsed by the City's Director of Homeland Security and the County's Director of the Office of Emergency Services.

CITY MANAGER SUPPORTING INFORMATION:

The City of San Diego has been identified by the federal Department of Homeland Security (DHS) as the "core city" for the San Diego Urban Area's participation in the FY 04 urban Area Security Initiative Grant Program (UASI). The Urban Area has been defined as the eighteen incorporated cities in San Diego County, the county and the related special districts. As the core city, San Diego will be the grantee and administrator of a \$10,418,116 homeland security grant to the San Diego Urban Area.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-105: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

The FY 04 UASI program provides financial assistance to address the unique equipment, training, planning and exercise needs of large, high-threat urban areas, and to assist them in building an enhanced and sustainable capacity to prevent, respond to and recover from threats or acts of terrorism. This program also provides funding to specific mass transit authorities to address security needs at these high risk critical infrastructure facilities and to promote comprehensive regional planning and coordination.

All funding must be allocated in support of the goals and objectives identified in the San Diego Urban Area Homeland Security Strategy that was recently developed under the FY 03 UASI grant program. A regional metropolitan area approach must be taken in the development and implementation of this program by involving core cities, core counties, contiguous jurisdictions and mutual aid partners. While the focus of this program is weapons of mass destruction (WMD) preparedness, the benefits will be seen in all of the emergency preparedness programs in the region. Any allocation of funds awarded via this program must be mutually endorsed by the City's Director of Homeland Security and the County's Director of the Office of Emergency Services.

Arellano/Lee/ DF

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-106: First Amendment to the Agreement with Sandler, Lasry, Laube, Byer & Valdez, LLP for Professional Services Related to the Mediation and Litigation Support on the Water Department Central Facility.

(Kearny Mesa Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1043)

Authorizing the City Attorney to execute a First Amendment to the Agreement with Sandler, Lasry, Laube, Byer & Valdez, LLP., in the amount of \$450,000, for professional services related to the mediation and litigation support on the Water Department Central Facility;

Authorizing the City Auditor and Comptroller to transfer an amount not to exceed \$313,673.12 from Water Fund 41500, CIP-73-261.3, Alvarado Water Treatment Plant Upgrade & Expansion - Phase 2, to Water Fund 41500, CIP-73-338.0, Water Department Central Facilities, for the funding of \$288,673.13 for the First Amendment to the Agreement with Sandler, Lasry, Laube, Byer & Valdez. LLP., and \$25,000 for in-house related expenditures;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to return excess funds, if any, to the appropriate reserves.

CITY MANAGER SUPPORTING INFORMATION:

In June 1997, the Zero Based Management Review recommended that the Water Department consolidate and relocate its office and maintenance facilities outside of downtown in order to reduce annual rent and operating costs by \$3,052,931. After an initial selection and interview process, Conwell Shonkwiler & Associates (CSA) along with DMG Maximus (DMG) were hired to develop a building program, concept plan, and construction budget for the project. In July 1999, the City contracted with CSA to design this facility based on the building program and construction budget established by CSA and DMG.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: (Continued)

CITY MANAGER SUPPORTING INFORMATION: (Continued)

In March 2000, CSA submitted 30 percent design documents that were \$14 to \$18 million dollars over the project's budget, the City directed CSA to redesign the project back to within the approved budget. After redesigning the project, the final design drawings were submitted and the Council authorized the project's advertisement. At the time of this approval, the design of the facility was complete, but City staff identified errors in the design that needed to be corrected before the project advertised to a low bid contractor. City staff notified CSA of these errors and CSA promised to correct the errors within several weeks. Approximately 8 months later, CSA submitted their corrected design which still had errors previously identified by City staff.

On September 18, 2001, the Council authorized the termination of a CSA's design services. The Council additionally authorized the filing of an action against CSA, and any other responsible parties, for the City's damages arising out of the Project. The Council further authorized the retention of outside counsel if necessary. The City terminated CSA's design services for cause on October 2, 2001.

Since that time, the City filed an action against CSA and DMG for breach of written contract and professional negligence. CSA also filed an action against the City for, among other things, breach of contract.

In CSA's lawsuit against the City, the City brought a successful demurrer and eventually motion for summary judgment disposing of all of CSA's claims against the City. In addition, the City brought a Motion for Award of Attorney's Fees. The Court granted the City's motion and awarded \$148,000 for the City Attorney's fees incurred in defending that action. CSA has filed an appeal and the briefing on the appeal is expected to be completed by the end of May 2004.

In the City's lawsuit against CSA, trial is set for July 30, 2004. In terms of damages, City will be making a claim for over \$5,000,000.

At the time of this Council's authorization for the termination of the consultant agreement and initiation of a lawsuit, the Council authorized the expenditure of \$500,000 in attorney's fees and costs. The City estimates that another \$450,000 for attorney's fees and expert costs will be needed to complete the prosecution of this case.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-106: (Continued)

FISCAL IMPACT:

Funding in an amount not to exceed \$450,000 to cover professional services related to mediation and litigation support and \$25,000 in related expenses is available in Water Fund 41500, CIP-73-338.0, Water Department Central Facility for this purpose.

Mendes/Gardner/MM

Aud. Cert. 2400980.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

- * ITEM-107: Ratifying the Centre City Redevelopment Project Area Committee (PAC) and Centre City Advisory Committee (CCAC) Election Results.

(See Centre City Development Corporation Report CCDC-04-10. Centre City Redevelopment Project Community Area. District-2.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2004-1016)

Ratifying the election results of November 18 and 19, 2003 for the Centre City Redevelopment Project Area Committee (PAC) and Centre City Advisory Committee (CCAC) of the San Diego Redevelopment Agency of the City of San Diego.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-108: Two actions related to Linda Vista Public Facilities Financing Plan for FY 2004.

(See City Manager Report CMR-04-047 and Draft of the Linda Vista Public Facilities Financing Plan. Linda Vista Community Area. District-6.)

TODAY'S ACTIONS ARE:

Adopt the following resolutions:

Subitem-A: (R-2004-914)

Approving the 2004 Linda Vista Public Facilities Financing Plan.

Subitem-B: (R-2004-915)

Rescinding the existing Development Impact Fees (DIF) for the Linda Vista Community;

Declaring the DIF fee schedule contained in the Linda Vista Public Facilities Financing Plan, Fiscal Year 2004, to be an appropriate and applicable DIF fee schedule for all properties within the Linda Vista Community area;

Declaring that the Docket Supporting Information (City Manager Report CMR-04-047), including all exhibits and attachments thereto, and the text contained in the Linda Vista Public Facilities Financing Plan, Fiscal Year 2004, are incorporated by reference into this Resolution as support and justification for satisfaction of findings required pursuant to California Government Code Sections 66001(a) and 66001(b) for imposition of DIFs. Specifically, it is determined and found that this documentation:

1. Identifies the purpose of the DIF;
2. Identifies the use to which the DIF is to be put;
3. Demonstrates how there is a reasonable relationship between the DIF's use and the type of development project on which the DIF is imposed; and
4. Demonstrates how there is a reasonable relationship between the need for the public facility and the type of development project on which the DIF is imposed.

ADOPTION AGENDA, CONSENT ITEMS (Continued)

RESOLUTIONS: (Continued)

* ITEM-108: (Continued)

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 3/10/2004, LU&H voted 3 to 0 to adopt the City Manager's recommendation.
(Councilmembers Peters, Lewis, and Frye voted yea. Councilmembers Zucchet and Inzunza not present.)

PUBLIC NOTICE:

Items are listed under Public Notice as a matter of public record only. These items do not require Council action and there is no public testimony.

ITEM-250: SUBMISSION OF BALLOT PROPOSALS

City Council Policy 000-21 establishes the procedure for submittal of ballot proposals. The Council Policy states that members of the public shall submit proposals to the City Clerk, who shall then transmit them promptly to the Rules Committee for review and comment. The proposals must be submitted in time to allow the City Clerk to list on the Council Docket 127 days prior to the election the ballot proposals which have been referred back to Council following Rules Committee review.

Therefore, the City Clerk's Office has established the following administrative guidelines for the November 2, 2004 election:

<u>DAY</u>	<u>DATE</u>	<u>DAYS BEFORE ELECTION</u>	<u>EVENT</u>
Friday	5/28/2004	158	LAST DATE (10:00 a.m.) for public, departments, and agencies to submit ballot proposals to City Clerk for review by Rules Committee.
Wednesday	6/16/2004	139	Rules Committee review of ballot proposals.
Monday	6/21/2004	134	Council Docket (PUBLIC NOTICE) lists proposals referred by Rules Committee.
Monday	6/28/2004	127	Council adopts propositions for ballot; directs City Attorney to prepare ordinances.
Monday	through 7/19/2004	to 106	
Monday	7/26/2004	99	Council adopts ordinances prepared by City Attorney.
Friday	8/06/2004	88	Last day for City Clerk to file with Registrar of Voters all elections material.
Thursday	8/19/2004	75	Last day to file ballot arguments with City Clerk.

If you have questions, please contact the Office of the City Clerk at (619) 533-4025.

NON-DOCKET ITEMS

ADJOURNMENT IN HONOR OF APPROPRIATE PARTIES

ADJOURNMENT